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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2000 62582

MARY L. TRESLER, P.T.A.  
1452 Love Way  
Auburn, California

**A C C U S A T I O N**

Physical Therapist Assistant No. AT 2054

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about August 3, 1989, the Physical Therapy Board of California issued Physical Therapist Assistant license number AT 2054 to Mary L. Tresler ("Respondent"). The Physical Therapist Assistant license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2005, unless renewed.

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4. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

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1           (j)     The aiding or abetting of any person to violate this chapter or any  
2 regulations duly adopted under this chapter.

3           (k)     The aiding or abetting of any person to engage in the unlawful practice of  
4 physical therapy.

5           (l)     The commission of any fraudulent, dishonest, or corrupt act which is  
6 substantially related to the qualifications, functions, or duties of a physical therapist.

7           (m)     Except for good cause, the knowing failure to protect patients by failing to  
8 follow infection control guidelines of the board, thereby risking transmission of  
9 blood-borne infectious diseases from licensee to patient, from patient to patient, and from  
10 patient to licensee. In administering this subdivision, the board shall consider referencing  
11 the standards, regulations, and guidelines of the State Department of Health Services  
12 developed pursuant to Section 1250.11 of the Health and Safety Code and the standards,  
13 regulations, and guidelines pursuant to the California Occupational Safety and Health Act  
14 of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for  
15 preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in  
16 health care settings. As necessary, the board shall consult with the Medical Board of  
17 California, the California Board of Podiatric Medicine, the Board of Dental Examiners of  
18 California, the Board of Registered Nursing, and the Board of Vocational Nursing and  
19 Psychiatric Technicians, to encourage appropriate consistency in the implementation of  
20 this subdivision.

21           The board shall seek to ensure that licensees are informed of the responsibility of  
22 licensees and others to follow infection control guidelines, and of the most recent  
23 scientifically recognized safeguards for minimizing the risk of transmission of  
24 blood-borne infectious diseases.

25           6.     Section 2661.5 of the Code states:

26           (a)     In any order issued in resolution of a disciplinary proceeding before the  
27 board, the board may request the administrative law judge to direct any licensee found  
28 guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and

1 reasonable costs of the investigation and prosecution of the case.

2 (b) The costs to be assessed shall be fixed by the administrative law judge and  
3 shall not in any event be increased by the board. When the board does not adopt a  
4 proposed decision and remands the case to an administrative law judge, the  
5 administrative law judge shall not increase the amount of the assessed costs specified in  
6 the proposed decision.

7 (c) When the payment directed in an order for payment of costs is not made  
8 by the licensee, the board may enforce the order of payment by bringing an action in any  
9 appropriate court. This right of enforcement shall be in addition to any other rights the  
10 board may have as to any licensee directed to pay costs.

11 (d) In any judicial action for the recovery of costs, proof of the board's  
12 decision shall be conclusive proof of the validity of the order of payment and the terms  
13 for payment.

14 (e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate  
15 the license or approval of any person who has failed to pay all of the costs ordered  
16 under this section.

17 (2) Notwithstanding paragraph (1), the board may, in its discretion,  
18 conditionally renew or reinstate for a maximum of one year the license or  
19 approval of any person who demonstrates financial hardship and who enters into a  
20 formal agreement with the board to reimburse the board within that one year  
21 period for those unpaid costs.

22 (f) All costs recovered under this section shall be deposited in the Physical  
23 Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually  
24 recovered or the previous fiscal year, as the board may direct.

25 7. Section 2660 of the Code states:

26 The board may, after the conduct of appropriate proceedings under the  
27 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or  
28 impose probationary conditions upon any license, certificate, or approval issued under

1 this chapter for unprofessional conduct that includes, but is not limited to, one or any  
2 combination of the following causes:

- 3 (a) Advertising in violation of Section 17500.
- 4 (b) Fraud in the procurement of any license under this chapter.
- 5 (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- 6 (d) Conviction of a crime which substantially relates to the qualifications,  
7 functions, or duties of a physical therapist. The record of conviction or a certified copy  
8 thereof shall be conclusive evidence of that conviction.
- 9 (e) Impersonating or acting as a proxy for an applicant in any examination  
10 given under this chapter.
- 11 (f) Habitual intemperance.
- 12 (g) Addiction to the excessive use of any habit-forming drug.
- 13 (h) Gross negligence in his or her practice as a physical therapist.
- 14 (i) Conviction of a violation of any of the provisions of this chapter or of the  
15 State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or  
16 assisting in or abetting the violating of, or conspiring to violate any provision or term of  
17 this chapter or of the State Medical Practice Act.
- 18 (j) The aiding or abetting of any person to violate this chapter or any  
19 regulations duly adopted under this chapter.
- 20 (k) The aiding or abetting of any person to engage in the unlawful practice of  
21 physical therapy.
- 22 (l) The commission of any fraudulent, dishonest, or corrupt act which is  
23 substantially related to the qualifications, functions, or duties of a physical therapist.
- 24 (m) Except for good cause, the knowing failure to protect patients by failing to  
25 follow infection control guidelines of the board, thereby risking transmission of  
26 blood-borne infectious diseases from licensee to patient, from patient to patient, and from  
27 patient to licensee. In administering this subdivision, the board shall consider referencing  
28 the standards, regulations, and guidelines of the State Department of Health Services

1 developed pursuant to Section 1250.11 of the Health and Safety Code and the standards,  
2 regulations, and guidelines pursuant to the California Occupational Safety and Health Act  
3 of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for  
4 preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in  
5 health care settings. As necessary, the board shall consult with the Medical Board of  
6 California, the California Board of Podiatric Medicine, the Board of Dental Examiners of  
7 California, the Board of Registered Nursing, and the Board of Vocational Nursing and  
8 Psychiatric Technicians, to encourage appropriate consistency in the implementation of  
9 this subdivision.

10 The board shall seek to ensure that licensees are informed of the responsibility of  
11 licensees and others to follow infection control guidelines, and of the most recent  
12 scientifically recognized safeguards for minimizing the risk of transmission of  
13 blood-borne infectious diseases.

14 8. Section 2630 of the Code states:

15 It is unlawful for any person or persons to practice, or offer to practice, physical  
16 therapy in this state for compensation received or expected, or to hold himself or herself  
17 out as a physical therapist, unless at the time of so doing the person holds a valid,  
18 unexpired, and unrevoked license issued under this chapter.

19 Nothing in this section shall restrict the activities authorized by their licenses on  
20 the part of any persons licensed under this code or any initiative act, or the activities  
21 authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or  
22 Chapter 7.7 (commencing with Section 3500).

23 A physical therapist licensed pursuant to this chapter may utilized the services of  
24 one aide engaged in patient-related tasks to assist the physical therapist in his or her  
25 practice of physical therapy. "Patient-related task" means a physical therapy service  
26 rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-  
27 patient-related task" means a task related to observation of the patient, transport of the  
28 patient, physical support only during gait or transfer training, housekeeping duties,

1 clerical duties, and similar functions. The aide shall at all times be under the orders,  
2 direction, and immediate supervision of the physical therapist. Nothing in this section  
3 shall authorize an aide to independently perform physical therapy or any physical therapy  
4 procedure. The board shall adopt regulations that set forth the standards and  
5 requirements for the orders, direction, and immediate supervision of an aide by a physical  
6 therapist. The physical therapist shall provide continuous and immediate supervision of  
7 the aide. The physical therapist shall be in the same facility as, and in proximity to, the  
8 location where the aide is performing patient-related tasks, and shall be readily available  
9 at all times to provide advice or instruction to the aide. When patient-related tasks are  
10 provided to a patient by an aide, the supervising physical therapist shall, at some point  
11 during the treatment day, provide direct service to the patient as treatment for the patient's  
12 condition, or to further evaluate and monitor the patient's progress, and shall  
13 correspondingly document the patient's record.

14 The administration of massage, external baths, or normal exercise not a part of a  
15 physical therapy treatment shall not be prohibited by this section.

16 9. California Code of Regulations, title 16, section 1398.44, states:

17 “A licensed physical therapist shall at all times be responsible for all physical  
18 therapy services provided by the physical therapist assistant. The supervising physical  
19 therapist has continuing responsibility to follow the progress of each patient, provide  
20 direct care to the patient and to assure that the physical therapist assistant does not  
21 function autonomously. Adequate supervision shall include all of the following:

22 “(a) The supervising physical therapist shall be readily available in person or  
23 by telecommunication to the physical therapist assistant at all times while the physical  
24 therapist assistant is treating patients. The supervising physical therapist shall provide  
25 periodic on site supervision and observation of the assigned patient care rendered by the  
26 physical therapist assistant.

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1           “(b) The supervising physical therapist shall initially evaluate each patient and  
2 document in the patient record, along with his or her signature, the evaluation and when  
3 the patient is to be reevaluated.

4           “(c) The supervising physical therapist shall formulate and document in each  
5 patient's record, along with his or her signature, the treatment program goals and plan  
6 based upon the evaluation and any other information available to the supervising physical  
7 therapist. This information shall be communicated verbally, or in writing by the  
8 supervising physical therapist to the physical therapist assistant prior to initiation of  
9 treatment by the physical therapist assistant. The supervising physical therapist shall  
10 determine which elements of the treatment plan may be assigned to the physical therapist  
11 assistant. Assignment of these responsibilities must be commensurate with the  
12 qualifications, including experience, education and training, of the physical therapist  
13 assistant.

14           “(d) The supervising physical therapist shall reevaluate the patient as  
15 previously determined, or more often if necessary, and modify the treatment, goals and  
16 plan as needed. The reevaluation shall include treatment to the patient by the supervising  
17 physical therapist. The reevaluation shall be documented and signed by the supervising  
18 physical therapist in the patient's record and shall reflect the patient's progress toward the  
19 treatment goals and when the next reevaluation shall be performed.

20           “(e) The physical therapist assistant shall document each treatment in the  
21 patient record, along with his or her signature. The physical therapist assistant shall  
22 document in the patient record and notify the supervising physical therapist of any change  
23 in the patient's condition not consistent with planned progress or treatment goals. The  
24 change in condition necessitates a reevaluation by a supervising physical therapist before  
25 further treatment by the physical therapist assistant.

26           “(f) Within seven (7) days of the care being provided by the physical therapist  
27 assistant, the supervising physical therapist shall review, cosign and date all  
28 documentation by the physical therapist assistant or conduct a weekly case conference



1 and document it in the patient record. Cosigning by the supervising physical therapist  
2 indicates that the supervising physical therapist has read the documentation, and unless  
3 the supervising physical therapist indicates otherwise, he or she is in agreement with the  
4 contents of the documentation.

5 “(g) There shall be a regularly scheduled and documented case conference  
6 between the supervising physical therapist and physical therapist assistant regarding the  
7 patient. The frequency of the conferences is to be determined by the supervising physical  
8 therapist based on the needs of the patient, the supervisory needs of the physical therapist  
9 assistant and shall be at least every thirty calendar days.

10 “(h) The supervising physical therapist shall establish a discharge plan. At the  
11 time of discharge, or within 7 (seven) days thereafter, a supervising physical therapist  
12 shall document in the patient's record, along with his or her signature, the patient's  
13 response to treatment in the form of a reevaluation or discharge summary.”

14 10. Section 810 of the Code states:

15 “(a) It shall constitute unprofessional conduct and grounds for disciplinary  
16 action, including suspension or revocation of a license or certificate, for a health care  
17 professional to do any of the following in connection with his or her professional  
18 activities:

19 “(1) Knowingly present or cause to be presented any false or fraudulent  
20 claim for the payment of a loss under a contract of insurance.

21 “(2) Knowingly prepare, make, or subscribe any writing, with intent to  
22 present or use the same, or to allow it to be presented or used in support of any false or  
23 fraudulent claim.

24 “(b) It shall constitute cause for revocation or suspension of a license or  
25 certificate for a health care professional to engage in any conduct prohibited under  
26 Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

27 “(c) (1) It shall constitute cause for automatic suspension of a license or  
28 certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5

(commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

"(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

1           "(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or  
2 certificate holder who has one or more convictions prior to January 1, 2004, as provided  
3 in this subdivision.

4           "(4) Nothing in this subdivision shall preclude a board from suspending or  
5 revoking a license or certificate pursuant to any other provision of law.

6           "(5) "Board," as used in this subdivision, means the Dental Board of  
7 California, the Medical Board of California, the Board of Psychology, the State Board of  
8 Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of  
9 California, and the State Board of Chiropractic Examiners.

10          "(6) "More than one conviction," as used in this subdivision, means that the  
11 licensee or certificate holder has one or more convictions prior to January 1, 2004, and at  
12 least one conviction on or after that date, or the licensee or certificate holder has two or  
13 more convictions on or after January 1, 2004. However, a licensee or certificate holder  
14 who has one or more convictions prior to January 1, 2004, but who has no convictions  
15 and is currently licensed or holds a certificate after that date, does not have "more than  
16 one conviction" for the purposes of this subdivision.

17          "(d) As used in this section, health care professional means any person  
18 licensed or certified pursuant to this division, or licensed pursuant to the  
19 Osteopathic Initiative Act, or the Chiropractic Initiative Act.

20                                   **FIRST CAUSE FOR DISCIPLINE**

21                                   **Patient P.C.**

22                                   (Unlawful Practice of Physical Therapy)  
                                      [Bus. & Prof. Code §§ 2630, 2660(i)]

23           10. Respondent is subject to disciplinary action under sections 2630 and  
24 2660(i) of the Code in that she practiced physical therapy without a license and beyond the scope  
25 of her physical therapy assistant license. The circumstances are as follows:

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1                   11.     On or about February 24, 2000, P.C.<sup>1</sup> was assessed by a physician and  
2 prescribed physical therapy services including therapeutic swimming pool services for P.C.'s left  
3 knee.

4                   12.     From at least May 1999 through December 2000, Respondent was the  
5 owner of Aquatic and Exercise and Rehab, Inc., in Sacramento, California, (hereinafter  
6 "Aquatic") where she worked as a licensed physical therapy assistant and provided physical  
7 therapy services to patients with the use of a swimming pool at Aquatic (pool therapy).

8                   13.     On or about March 8, 15, 27, and 29, 2000, Respondent, provided  
9 physical therapy services to patient P.C. without an evaluation of the patient by a licensed  
10 physical therapist and documented in the patient record.

11                   14.     On or about March 8, 15, 27, and 29, 2000, Respondent, independently,  
12 autonomously, and without the supervision of a licensed physical therapist, provided physical  
13 therapy services to patient P.C.

14                   15.     Respondent's conduct as set forth in paragraphs 13 and 14, above,  
15 constitutes the unlawful practice of physical therapy within the meaning of section 2630 of the  
16 Code and conduct subject to discipline within the meaning of Code section 2660(i).

17                                   **SECOND CAUSE FOR DISCIPLINE**

18   **Patient P.C.**

19   (Gross Negligence)

20   [Bus. & Prof. Code § 2660(h)]

21                   16.     Complainant incorporates by reference paragraphs 11, 12, 13 and 14,  
22 above, as if fully set forth at this point.

23                   17.     Respondent's conduct as set forth in paragraphs 11, 12 13 and 14, above,  
24 constitutes gross negligence within the meaning of section 2660(h) of the Code and is subject to  
25 discipline.

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27                   1. The full names of all patients referred to herein will be made available to Respondent  
28 upon a timely request for discovery.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **Patient L.A.**

3 (Unlawful Practice of Physical Therapy)  
4 [Bus. & Prof. Code §§ 2630, 2660(i)]

5 18. Respondent is subject to disciplinary action under sections 2630 and  
6 2660(i) of the Code in that she practiced physical therapy without a license and beyond the scope  
7 of her physical therapy assistant license. The circumstances are as follows:

8 19. On or about May 26, 1999, Respondent began providing physical therapy  
9 services to patient L.A., through the use of a swimming pool at Aquatic, under the supervision of  
10 Lisa Oberth, a licensed physical therapist. William Slavensky, a chiropractor, had prescribed the  
11 physical therapy services for L.A.

12 20. In a status report dated September 29, 1999, Respondent wrote to the  
13 chiropractor, Dr. Slavensky, informing him of L.A.'s status in physical therapy as well as  
14 assessment information including the patient's irritability level. The status letter and the  
15 patient's assessment information that Respondent provided to the chiropractor required the  
16 supervising physical therapist's input and approval which Respondent did not obtain.

17 21. Respondent's conduct as set forth in paragraphs 16 and 17, above,  
18 constitutes the unlawful practice of physical therapy within the meaning of section 2630 of the  
19 Code and conduct subject to discipline within the meaning of Code section 2660(i).

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **Patient L.A.**

22 (Gross Negligence)  
23 [Bus. & Prof. Code § 2660(h)]

24 22. Complainant incorporates by reference paragraphs 19 and 20, above, as if  
25 fully set forth at this point.

26 23. Respondent's conduct as set forth in paragraphs 19 and 20, above,  
27 constitutes gross negligence within the meaning of section 2660(h) of the Code and is therefore  
28 subject to discipline.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **Patient C.C.**

3 (Unlawful Practice of Physical Therapy)  
4 [Bus. & Prof. Code §§ 2630, 2660(i)]

5 24. Respondent is subject to disciplinary action under sections 2630 and  
6 2660(i) of the Code in that she practiced physical therapy without a license and beyond the scope  
7 of her physical therapy assistant license. The circumstances are as follows:

8 25. In 1999, Respondent began providing physical therapy services to C.C.,  
9 through the use of a swimming pool at Aquatic. Most of the physical therapy services  
10 Respondent provided were under the supervision of a licensed physical therapist who was located  
11 at a different establishment.

12 26. In February 2000, Respondent was providing physical therapy services to  
13 patient C.C. at Aquatic, under the supervision of Robin Wham, a licensed physical therapist who  
14 worked out of her place of business, Capital Physical Therapy in Sacramento, California. C.C.  
15 was receiving physical therapy services for a back problem and back pain.

16 27. On February 22, 2000, Respondent noted in C.C.'s chart that the patient  
17 had slipped in the yard, fell, and had a big bruise on the right medial knee. Respondent also  
18 noted in the patient's chart that the bruised knee seemed to tolerate well the physical therapy  
19 services Respondent provided. Before providing physical therapy services to C.C. on  
20 February 22, 2000, Respondent should have first informed her supervising physical therapist,  
21 Ms. Wham, of C.C.'s injured right knee to allow Ms Wham the opportunity to assess and/or  
22 determine whether the physical therapy services to the patient should be modified. Respondent  
23 failed to so inform Ms. Wham.

24 28. Respondent charted that the patient's bruised knee tolerated well the  
25 physical therapy services Respondent had provided on February 22, 2000. This constitutes an  
26 assessment which Respondent is not licensed to perform.

27 29. Respondent's conduct as set forth in paragraphs 23, 24 and 25, above,  
28 constitutes the unlawful practice of physical therapy within the meaning of section 2630 of the  
Code and is therefore conduct subject to discipline within the meaning of Code section 2660(i).

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **Patient C.C.**

3 (Gross Negligence)

4 [Bus. & Prof. Code § 2660(h)]

5 30. Complainant incorporates by reference paragraphs 25, 26, 27, and 28,  
6 above, as if fully set forth at this point.

7 31. Respondent's conduct as set forth in paragraphs 25, 26, 27 and 28, above,  
8 constitutes gross negligence within the meaning of section 2660(h) of the Code and is subject to  
9 discipline.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **Patient C.S.**

12 (Unlawful Practice of Physical Therapy)

13 [Bus. & Prof. Code §§ 2630, 2660(i)]

14 32. Respondent is subject to disciplinary action under sections 2630 and  
15 2660(i) of the Code in that she practiced physical therapy without a license and beyond the scope  
16 of her physical therapy assistant license. The circumstances are as follows:

17 33. In October 1999, Respondent was providing physical therapy services to  
18 patient C.S. at Aquatic, under the supervision of Stacey O'Brien, a licensed physical therapist  
19 who was employed by, and worked at Alliance West, in Sacramento, California. C.S. was  
20 receiving physical therapy for a back sprain and back pain.

21 34. On October 18, 1999, Respondent noted in C.S.'s chart that the patient  
22 was very sore, fell on oil and slipped, and shoulder still numb. On the above date, Respondent,  
23 without first informing her supervising physical therapist of the patient's injury, provided  
24 physical therapy services to C.S. Before providing physical therapy services to C.S. on  
25 October 18, 1999, Respondent should have first informed her supervising physical therapist,  
26 Ms. O'Brien, of C.S.'s injured shoulder to allow Ms. O'Brien the opportunity to assess and/or  
27 determine whether the physical therapy services to the patient should be modified. Respondent  
28 failed to so inform Ms. O'Brien.

35. Respondent's conduct as set forth in paragraphs 33 and 34, above,  
constitutes the unlawful practice of physical therapy within the meaning of section 2630 of the

Code and therefore the conduct is subject to discipline within the meaning of Code section 2660(i).

**EIGHTH CAUSE FOR DISCIPLINE**

**Patient C.S.**

(Gross Negligence)

[Bus. & Prof. Code § 2660(h)]

36. Complainant incorporates by reference paragraphs 33 and 34, above, as if fully set forth at this point.

37. Respondent's conduct as set forth in paragraphs 33 and 34, above, constitutes gross negligence within the meaning of section 2660(h) of the Code and is subject to discipline.

**NINTH CAUSE FOR DISCIPLINE**

**Patient C.S.**

(Unlawful Practice of Physical Therapy)

[Bus. & Prof. Code §§ 2630, 2660(i)]

38. Respondent is subject to disciplinary action under sections 2630 and 2660(i) of the Code in that she practiced physical therapy without a license and beyond the scope of her physical therapy assistant license. The circumstances are as follows:

39. In October 1999, Respondent was providing physical therapy services to patient C.S. at Aquatic, under the supervision of Stacey O'Brien, a licensed physical therapist who was employed by, and worked at Alliance West, in Sacramento, California. C.S. was receiving physical therapy for a back sprain and back pain.

40. In a status report dated November 15, 1999, Respondent wrote C.S.'s physician, Daniel Dunlevy, M.D., informing him of C.S.'s status in physical therapy as well as assessment information including the patient's irritability level. The status letter and the patient's assessment information that Respondent provided to the physician required the supervising physical therapist's input and approval which Respondent did not obtain.

41. Respondent's conduct as set forth in paragraphs 37 and 38, above, constitutes the unlawful practice of physical therapy within the meaning of section 2630 of the

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1 Code and therefore the conduct is subject to discipline within the meaning of Code section  
2 2660(i).

3 **TENTH CAUSE FOR DISCIPLINE**

4 **Patient C.S.**

(Gross Negligence)

[Bus. & Prof. Code § 2660(h)]

5  
6 42. Complainant incorporates by reference paragraphs 39 and 40, above, as if  
7 fully set forth at this point.

8 43. Respondent's conduct as set forth in paragraphs 39 and 40, above,  
9 constitutes gross negligence within the meaning of section 2660(h) of the Code and is subject to  
10 discipline.

11 **ELEVENTH CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

[Bus. & Prof. Code § 2660(h)]

12  
13 44. In May 2000, Respondent employed Stacy O'Brien, a licensed physical  
14 therapist, to work as a physical therapist at Aquatic. Ms. O'Brien's duties at Aquatic included  
15 supervising Respondent's work as a licensed physical therapy assistant.

16 45. From on or about June 1, 2000, through on or about July 28, , 2000,  
17 Respondent, while under the supervision of her employee, Stacy O'Brien, provided physical  
18 therapy services to patient C.H. , at Aquatic, on approximately 6 occasions. Respondent's  
19 provision of physical therapy services to C.H., while under the supervision of her employee,  
20 Stacy O'Brien, constitutes a conflict of interest.

21 46. From on or about June 1, 2000, through on or about November 27, 2000,  
22 Respondent, while under the supervision of her employee, Stacy O'Brien, provided physical  
23 therapy services to patient M.L., at Aquatic, on approximately 16 occasions. Respondent's  
24 provision of physical therapy services to M.L., while under the supervision of her employee,  
25 Stacy O'Brien, constitutes a conflict of interest.

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47. Respondent's conduct as set forth in paragraphs 45 and 46, above, constitutes unprofessional conduct within the meaning of section 2660 of the Code and therefore the conduct is subject to discipline.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapy Assistant Number AT 2054,  
issued to Mary L. Tresler;

2. Ordering Mary L. Tresler to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED:

STEVEN K. HARTZELL  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
Complainant